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DEC 04 1985

MEMORANDUM FOR: James Y. Vorse, Director, Office of Investigations
Atlanta Field Office

FROM: Bradley W. Jones, Regional Counsel

SUBJECT: ALLEGATIONS OF PATTY MIRIELLO

I understand that your office has had contacts with and is reviewing allegations by Ms. Patty Miriello. I have recently received a copy of the transcript containing Ms. Miriello's testimony at the Shearon Harris Drug hearing. I am enclosing those pages with this memorandum for your information. I particularly draw your attention to pages 9132-9147. On those pages, the Licensing Board requested that the NRC treat certain new allegations raised by Ms. Miriello in our usual fashion. I understand that Ms. Miriello has been reluctant to speak to OI or anyone else from the NRC, but you may want to check to determine if her testimony raises issues not given to you in your earlier conversations with her.

ORIGINAL SIGNED BY

Bradley W. Jones

Enclosure:
Harris Transcript
Pages 9082-9160

cc w/o encl:
C. Barth, ELD
J. Moore, ELD

bcc w/encl:
B. Uryc, IAC
T. Nash, IAC
L. Robinson, OI

8710290334 871028
PDR FOIA
EPTING86-596 PDR

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 6
FOIA- 86-596 + 86-793

RIJ
BJones
12/11/85

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1 JUDGE KELLEY: Mr. Eddleman is distributing
2 his motion for In-Camera hearing, and pursuant to the ruling
3 we just made, this will be held under protective order,
4 or at least pending disposition of ruling on the motion,
5 and we will consider what further steps are appropriate.

6 (Mr. Eddleman passes out document.)

7 It appears we are about ready to go to the
8 Interveners direct case. May I just ask once more,
9 if the subpoenaed witnesses that we anticipated being here
10 today, are they all on tap?

11 MR. RUNKLE: The Sheriff's Department should be
12 here by ten o'clock, so I fully expect them to be here on
13 time.

14 JUDGE KELLEY: Your people, Mr. Cole?

15 MR. COLE: Should be here by ten o'clock also,
16 sir.

17 JUDGE KELLEY: Fine. Okay. Anything else before
18 we go to Mr. Runkle, or his first witness?

19 Okay, Mr. Runkle.

20 MR. RUNKLE: Yes. For the Conservation Council
21 of North Carolina, we would like to call our first witness,
22 Patty Miriello.

23 JUDGE KELLEY: Fine.

24 Whereupon,

25 PATTY MIRIELLO,

1 was called as a witness on behalf of the Interveners, and
2 having first been duly sworn by Judge Kelley, testified
3 as follows:

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4 DIRECT EXAMINATION

5 BY MR. RUNKLE:

6 Q Ms. Miriello, will you state your name and address
7 for the record?

8 A My name is Patty Miriello. [REDACTED]
9 [REDACTED]

10 Q Did you file testimony in this matter, a document
11 entitled: Testimony of Patty Miriello for the Conservation
12 Council on Contention WB-3, Drug Abuse During Construction?

13 A Yes, I did.

14 (Mr. Runkle approaches the bench and parties
15 to show a document.)

16 Q Ms. Miriello, I have handed you a copy that is
17 marked to reflect the stipulation that was entered into
18 about eleven o'clock yesterday morning. Can you review
19 that document and see if it is so marked?

20 A It certainly is.

21 Q Is it your understanding that your testimony
22 on the stand today is to reflect the stipulation that
23 was entered into yesterday?

24 A Yes, I do.

25 Q Is your testimony to reflect the stipulation of

1 yesterday true and correct to your knowledge and belief?

2 A Yes.

3 MR. RUNKLE: I would then move to enter the
4 testimony of Patty Miriello into the record.

5 JUDGE KELLEY: No objection.

6 MR. BARTH: No objections from the Staff, Your
7 Honor.

8 MR. HOLLAR: No objections.

9 JUDGE KELLEY: Motion granted. Testimony is
10 admitted.

11 (Prefiled testimony of Ms. Miriello follows.)
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September 23, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
Carolina Power & Light Company)	Docket No. 50-400 OL
and North Carolina Eastern)	
Municipal Power Agency)	
)	
(Shearon Harris Nuclear Power Plant))	

TESTIMONY OF PATTY MIRIELLO FOR THE CONSERVATION COUNCIL
ON CONTENTION WB-3 (DRUG ABUSE DURING CONSTRUCTION)

Q: What is your name?

A: My name is Patty Miriello.

Q: What is your address?

A: [REDACTED]

Q: Have you ever worked at the Shearon Harris Nuclear Plant? If so, in what capacity and for how long?

A: I was employed by Nuclear Energy Services of Danbury, Connecticut, which was a contractor for Carolina Power & Light and also employed by Carolina Power & Light. I worked at the Harris plant from April 1984 through August 1985. I was as an engineer in in-service inspection which is involved in inspecting safety-related piping welds and other components. -

Q: Have you had any other education or experience with nuclear power plants? If so, please describe.

A: Yes, prior to my employment at the Harris plant, I was an engineer with EG&G of Idaho, a DOE contractor, and worked at the Three Mile Island plant in accident investigation and data analysis. I have an M.S. in Ceramic Science which was funded through a nuclear waste management traineeship with DOE. I am currently finishing my M.S. in Nuclear Engineering at North Carolina State University.

Q: Are you familiar with the Conservation Council's contention WB-3 (Drug Abuse During Construction) in the Operating License proceedings for the Harris plant?

A: Yes, it deals with the drug abuse at the plant during construction and the resulting safety-related issues.

per 101-1-1 later

[Q: While you work at the Harris plant, did you see any drug abuse by any of the workers, inspectors, or management at the plant?

A: Yes, by various personnel employed by Conam Inspection of Richmond, California, and others.

Q: Please describe the drug activities of Conam Inspection personnel and their inspection activities.

A: From July through November 1984, eddy current data at Harris was obtained by Conam personnel I have seen deal or use cocaine. On one occasion I witnessed [REDACTED] of Conam purchase several grams of cocaine from [REDACTED], also of Conam, at the Mission Valley Inn in Raleigh and then proceed to use. [REDACTED] alleged that other persons employed in the Conam organization also were using drugs, including [REDACTED]

[REDACTED] and others. These people were involved in inspection/analysis of the steam generators at Harris.

In October or November 1984, Conam also did eddy current work at the VC Summer Nuclear Plant near Columbia, South Carolina, operated by South Carolina Gas & Electric. [REDACTED] said that one quarter to one half a pound of marijuana was brought into the plant in an equipment case or package which was then opened on-site in a Conam data analysis van. The drugs had been flown to South Carolina from Richmond, California, and were alleged to have been sent by [REDACTED] of Conam. [REDACTED] said drug were routinely shipped to Conam personnel.

Q: What is the possible safety significance of Conam personnel's involvement in drugs?

A: Conam Inspection provides eddy current inspection personnel and eddy current data analyst personnel to obtain and analyze steam generator tubing]

Paragraph with
drawn per
10/2/85
shpula

[at a large number of the nation's operating and construction stage nuclear plants. Steam generator tubing contains the primary reactor coolant which circulates in a loop continuously from core to the steam generator. Eddy current inspection is a means of finding any cracks or other indications in the tubing which may eventually lead to rupture. When inspectors or analysts are abusing drugs, flaws in the tubing may be missed, calibrations of the equipment may be off, data may be confused as to its origin or from what tubes it is from, and finally the data may be mis-interpreted by the final analyst. If the tubing ruptures and if enough primary coolant is lost in this way the core may become uncovered and reactor control may be lost. This is the type of problem operators are trained to handle, but the operators may not be able to handle deviations from this basic problem.] -

Q: Have you witnessed any ~~man~~ workers at Harris who were involved with drugs?

A: Yes, on one occasion last October, when I arrived at work in the morning I observed seven or eight construction workers up on the boilers obviously smoking marijuana. This was in plain view of the administration building.

Additionally, when I walked through the Daniel parking lot I could smell marijuana at least three or four days a week, especially at lunch time or around shift changes. I am sure that the Wackenhut Security guards at the gate could verify this.

Q: What are the deficiencies in CP&L's drug testing program?

A: If a worker has worked for CP&L, Daniels, or any of the other contractor, for three years or more, he or she does not have to take a urine test. These tests are also taken at the worker's own doctor's office or

clinic and as the tests are often scheduled two weeks in advance, it is possible to substitute urine. This was commonly known at the plant as the best way to get around the urine test for drugs.

From what I have seen of the company's use of drug dogs, they were not used effectively. For example, in the spring of 1985 I was entering the site late one morning through the CP&L entrance near the cooling tower when I saw the drug dog being unload in full view of the construction workers near the diesel generator building and those working in all the trailers near the cooling tower. A much better entrance for the dog would have been through the receiving warehouse gate where only a few people could have seen the dog and these would have been CP&L employees. In order to stop drugs the dog could be placed randomly at the entrances and have it sniff workers lunch boxes, brief cases, and other belongings. As soon as a drug dog is spotted being taken out of the truck, the news is spread across the site in a few minutes by word of mouth.

[Q: Have you raised any safety-related issues concerning drug abuse at the Harris plant before this hearing? If so, what and with whom?]

Question and answer
with [unclear]
per 10/2/85
signature

A: Last November I brought to my supervisor's attention the need to recheck steam generator data supplied by Conam as there appeared to me to be mistakes in it. Around November 25, when nothing had been done I went to the Federal Bureau of Investigation with my concerns about Conam and drug abuse. This past August 15th or 16th, I contacted the State Bureau of Investigation with my concerns about drug abuse at the Harris site. During the second week in September I was interviewed by members of the Nuclear Regulatory Commission staff about my allegations.]

Q: From your observations, is drug abuse at the Harris plant widespread?

A: Yes, drug abuse is widespread throughout the Daniel Construction Company and Carolina Power & Light at the Harris plant.

Q: Does that conclude your testimony?

A: Yes it does.

1 MR. RUNKLE: We would also request that the
2 testimony be bound into the record as asked and answered.

3 JUDGE KELLEY: Yes.

4 MR. RUNKLE: This witness is ready for cross-
5 examination.

6 JUDGE KELLEY: Thank you. Mr. Baxter? Or Mr.
7 Hollar.

8 MR. HOLLAR: Thank you, Judge Kelley. Before
9 I get into the cross-examination, just as a matter of
10 efficiency, I would like to have the documents that were
11 distributed yesterday marked for identification.

12 JUDGE KELLEY: Fine.

13 MR. HOLLAR: The first document --

14 MR. RUNKLE: Excuse me counsel, but do you have
15 another set of those?

16 MR. HOLLAR: I think we do. Do you have the
17 copies in front of you, Mr. Runkle?

18 MR. RUNKLE: Yes, I do.

19 MR. HOLLAR: We would ask that the first document,
20 which is entitled, Employee Exit Questionnaire, signed by
21 Patty S. Miriello and dated 2/19/85, be marked as Applicants'
22 Exhibit No. 41.

23 JUDGE KELLEY: Let me just be clear, Mr. Hollar.
24 I thought that these documents that were distributed yesterday
25 were contemplated for use, or possible use, in cross-

1 examination, and I understand why we might want to
2 identify them just for clarity.

3 But do you contemplate offering them as evidence?

4 MR. HOLLAR: Your Honor, I think we will probably
5 not offer them as evidence, but for clarity I just wanted
6 to have them marked.

7 JUDGE KELLEY: This is only identification.

8 MR. HOLLAR: That is right.

9 JUDGE KELLEY: Okay, go ahead.

10 MR. HOLLAR: Now --

11 JUDGE KELLEY: So you are offering the exit
12 interview as 41?

13 MR. HOLLAR: Yes.

14 JUDGE KELLEY: It is marked as 41.

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15 (Above mentioned document is
16 marked as Applicants' Exhibit 41
17 for identification.)

18 MR. HOLLAR: As Applicants Exhibit No. 42, we
19 ask that an 18 page letter, dated August 9/10, 1985, to
20 Mr. M. A. McGuffie, and as attachments the two unnumbered
21 pages and a four page memorandum be marked as Exhibit No.
22 42.

23 JUDGE KELLEY: You said to Mr. McGuffie. From
24 Ms. Miriello?

25 MR. HOLLAR: From Ms. Miriello.

1 JUDGE KELLEY: Okay.

2 X.. INDEX

(Above mentioned document is
3 marked Applicants' Exhibit No. 42,
4 for identification.)

5 MR. HOLLAR: As Applicants' Exhibit 43, we
6 ask that a two page letter to M. A. McDuffie, from Patty
7 Miriello, dated August 12, 1985, to which is attached a
8 resume of Patty S. Miriello, be marked for identification.

9 JUDGE KELLEY: As 43.

10 MR. HOLLAR: 43.

11 JUDGE KELLEY: Right.

12 XX INDEX

(Above mentioned document is
13 marked Applicants' Exhibit No. 43
14 for identification.)

15 MR. HOLLAR: As Applicants' Exhibit 44, we ask
16 that the Affidavit of Patty Miriello, dated September 6,
17 1985, be marked for identification.

18 JUDGE KELLEY: Right.

19 XX INDEX

(Above mentioned document is
20 marked Applicants' Exhibit No. 44
21 for identification.)

22 MR. HOLLAR: And finally, as Applicants' Exhibit 45
23 we ask that the Conservation Council's Supplement to
24 Discovery Requests, also dated September 6, 1985, be marked
25 for identification.

1 JUDGE KELLEY: Yes.

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(Above mentioned document is marked
3 Applicants' Exhibit No. 45, for
4 identification.)

5 MR. HOLLAR: Thank you.

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CROSS-EXAMINATION

7 BY MR. HOLLAR:

8 Q Ms. Miriello, I have a few questions for you.

9 I don't have a lot of questions, because most of your
10 testimony has been stricken per our stipulation yesterday.

11 MR. RUNKLE: Excuse me, Mr. Hollar, can you
12 talk a little closer to the microphone, I can barely hear
13 you.

14 MR. HOLLAR: Sure. Is that better Mr. Runkle?

15 MR. RUNKLE: You still have to talk louder. I am
16 sorry.

17 MR. HOLLAR: Okay. I thought I was talking
18 pretty loud.

19 MR. RUNKLE: All right. That is fine.

20 BY MR. HOLLAR: (Continuing)

21 Q Ms. Miriello, just as a matter of background,
22 who is your present employer?

23 A I am afraid to disclose that because of retaliation.

24 MR. HOLLAR: Your Honor, I would move to
25 direct the witness to answer the question, please?

1 JUDGE KELLEY: Can you indicate, Ms. Miriello,
2 some basis for your fear of retaliation?

3 WITNESS MIRIELLO: Yes, I can. CP&L has a lot
4 of connections in Raleigh, and a lot of affiliations with
5 different businesses, and I do they have business with the
6 company I presently work with.

7 I could lose my job over this.

8 JUDGE KELLEY: Is the retaliation concerned
9 here of your loss of your job?

10 WITNESS MIRIELLO: Correct. My current job.

11 MR. HOLLAR: Your Honor, I would point out that
12 Ms. Miriello is participating in an open hearing, and there
13 -- it has been extensively reported in the press in this
14 area for the last few weeks.

15 If her employer doesn't know about it by now,
16 perhaps he doesn't read the papers.

17 JUDGE KELLEY: Mr. Runkle, any comment?

18 MR. RUNKLE: Yes, sir. Just my first comments
19 is that is really beyond the scope of her direct testimony,
20 and really doesn't go into any matter that would influence
21 the outcome of this hearing.

22 End 2.
23 MS fols.

Sim 3-1

1 JUDGE KELLEY: Excuse me. Am I just misrecollecting
2 that there is no reference in the testimony or the affidavit
3 of Ms. Miriello of her current employer?

4 MR. RUNKLE: No, sir. We would at this point
5 stipulate that it is not with CP&L and it is not in any
6 nuclear power operating utility.

7 JUDGE KELLEY: I would just ask from Mr. Hollar
8 why is this important from your standpoint?

9 MR. HOLLAR: Your Honor, we would be happy if she
10 would simply tell us what her job is and the length of time
11 she has been employed.

12 JUDGE KELLEY: Could you say what it is you do and
13 how long you have been employed, Ms. Miriello?

14 THE WITNESS: At the present I could say that I am
15 a graduate student, which I am.

16 JUDGE KELLEY: Are you employed at the present time,
17 Ms. Miriello?

18 THE WITNESS: Yes, I am.

19 JUDGE KELLEY: other than being a graduate student?

20 THE WITNESS: Yes, I am.

21 JUDGE KELLEY: What is the nature of the work?

22 THE WITNESS: Security work.

23 JUDGE KELLEY: I think, Ms. Miriello, we might feel
24 that you should give more detail, but I am not clear that
25 Mr. Hollar needs very much more than what he has got, unless

Sim 3-2

there is something that is missing, or that I am missing.

Do you need further information, Mr. Hollar?

MR. HOLLAR: No, Your Honor. It was intended to be a very innocent question.

JUDGE KELLEY: Just go ahead.

BY MR. HOLLAR:

Q Ms. Miriello, is it true that you were employed by Carolina Power and Light Company at the Shearon Harris plant between February 1985 and August 30, 1985?

A Yes, it is.

Q Is it correct that your job title during that time period was radiation control technician, level II?

JUDGE KELLEY: Excuse me just a moment. This is I think the worst we have had in terms of competing noise. Is it bothering you, Ms. Miriello, or is it not? I guess the witness and the questioning counsel are my primary concerns.

THE WITNESS: No, I am accustomed to a lot of static.

JUDGE KELLEY: Mr. Hollar? We might ask them to turn it down.

MR. HOLLAR: It is a little distracting, but it is not that big of a problem.

JUDGE KELLEY: Well, let's go ahead then. Proceed.

BY MR. HOLLAR:

Q Ms. Miriello, did you answer the last question? Was

3-3

1 your job title while you were employed by CP&L at Shearon
2 Harris radiation control technician, level II?

3 A Yes, it was.

4 Q While you were employed by CP&L, Ms. Miriello,
5 did you sent two letters to Mr. M. A. McDuffie, CP&L's Senior
6 Vice President?

7 A I turned in a grievance.

8 Q That was not my question, Ms. Miriello.

9 A That is what that is. Those two letters are part
10 of a grievance.

11 Q Can you answer the question yes or no?

12 A Yes, those two letters are part of a grievance, and
13 yes, I did.

14 Q Turning your attention to the documents that have
15 been marked as Applicants' Exhibit 42 and Applicants' Exhibit
16 43 ---

17 MR. RUNKLE: Counsel, I think you need to give her
18 those documents.

19 JUDGE KELLEY: Could we provide the witness with
20 copies. I assumed she had one.

21 MR. HOLLAR: Your Honor, we handed the documents out
22 yesterday, but I believe we do have an extra set.

23 (The documents were handed to the witness.)

24 THE WITNESS: Are they marked? Which is 42 and
25 which is 41?

Sim 3-4

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JUDGE KELLEY: Could you give the references to the witness?

MR. HOLLAR: Certainly.

JUDGE KELLEY: The two letters are 42 and 43, are they not?

MR. HOLLAR: Yes.

JUDGE KELLEY: And which is which?

MR. HOLLAR: Exhibit 42 is the August 9/10 letter. Exhibit 43 is the August 12 letter.

JUDGE KELLEY: Okay.

THE WITNESS: Okay.

BY MR. HOLLAR:

Q Ms. Miriello, are these photocopies of handwritten letters that you sent to Mr. M. A. McDuffie?

A Yes, they are.

Q I would like to turn your attention to page 5 of the August 9/10 letter, Exhibit 42.

MR. RUNKLE: At this point I would like to object. I have let this line of questioning go on for a while, but I fail to see the relevance of these questions as it relates to her testimony.

JUDGE KELLEY: Could you connect it up, Mr. Hollar?

MR. HOLLAR: Yes, Your Honor. These are letters that Ms. Miriello sent to a senior executive of CP&L within three weeks prior to the time that she produced her affidavit

1 for the Conservation Council.

2 JUDGE KELLEY: Yes.

3 MR. HOLLAR: They show her interest and her motiva-
4 tion in becoming involved in this proceeding.

5 JUDGE KELLEY: The portions of your letters that
6 you are going to focus on, in your view, will show that?

7 MR. HOLLAR: Well, the letters in their entirety
8 demonstrate that there are only a couple of short passages
9 that I intend to refer to specifically.

10 JUDGE KELLEY: But just so that we understand and
11 the record is clear, in bringing out the letter, the letter,
12 in your view, goes to credibility and it does not go to any
13 particular statement in the testimony; is that right?

14 MR. HOLLAR: That is correct.

15 JUDGE KELLEY: Okay. So that is the thrust of
16 Mr. Hollar's purpose.

17 Mr. Runkle?

18 MR. RUNKLE: Well, we would still object. I don't
19 think that the motivation of a witness for coming forward
20 and testifying is a matter for any cross-examination.

21 MR. HOLLAR: Your Honor, I am ---

22 JUDGE KELLEY: One at a time, gentlemen. We will
23 hear each side.

24 MR. HOLLAR: Your Honor, I cannot hear him. I am
25 having a lot of trouble with this now.

Sim 3-6

1 JUDGE KELLEY: I can understand that. We are going
2 to have to take care of that.

3 MR. RUNKLE: Sir, the point was that the motivation
4 of our witness to coming forward with this testimony should
5 not be a matter for cross-examination, and really it bears
6 nothing to the matters that we are having a hearing about.

7 We have not questioned any of the other witnesses
8 about their motivation for coming forward, and it seems to
9 us irrelevant the reasons why a witness would come forward
10 and make statements that a witness has made in their testimony.

11 JUDGE KELLEY: Are you arguing that we can't go into
12 the credibility of a witness at all?

13 MR. RUNKLE: No. I am saying if you look at this
14 witness and this witness' testimony, credibility should not
15 play a part in this testimony.

16 JUDGE KELLEY: Why not? Mr. Runkle, for heaven's
17 sakes, the witness is saying I saw this and this and this, and
18 maybe she is right and maybe she is not right. But she is
19 certainly making affirmative statements within the contention.
20 And the idea that you can't attack the credibility of a witness
21 is to me startling. I thought the thrust of Mr. Hollar's
22 coment -- well, we will get back to Mr. Hollar.

23 But if your proposition is that the credibility
24 of a witness is not a subject of inquiry in this hearing, then
25 you are not correct.

Sim 3-7

1 Why do you think we talk to these experts at
2 such great length and say how many undercover investigations
3 did you have? You had questions of that at some length
4 the other day trying to find out if these witnesses knew
5 what they were talking about. This is in the same vein
6 I gather.

7 MR. RUNKLE: No. Those questions about the
8 expertise and the credibility of the experts that have come
9 forward and made opinions I think is substantially different
10 from question the motivation of a volunteer witness, to
11 question the motivation of that witness for coming forward
12 and testifying.

13 JUDGE KELLEY: What is the difference between a
14 voluntary witness and any other witness in terms of
15 credibility?

16 MR. RUNKLE: We are going not towards credibility.
17 We are going towards the motivation for coming forward with
18 testimony in this proceeding.

19 JUDGE KELLEY: Well, Mr. Runkle, motivation can
20 have a great deal to do with credibility. I might ask
21 Mr. Hollar to expand on that.

22 Your objection seems to be so far that you can't
23 go into the motive of a witness and that you can only
24 talk about the very things that they have said in their
25 direct testimony and that is not right. So we will pass

sim 3-8

1 that one.

2 Mr. Hollar, could you expand a bit on your
3 approach here. We have established, I believe, that the
4 approach is not to quarrel with any particular line or
5 sentence of the substance of the testimony, but rather to
6 quarrel with the witness' possible bias or motive in
7 making the statement; is that correct?

end Sim

Sue fols

4-1-SueW

1 MR. HOLLAR: Yes, that's absolutely correct, Your
2 Honor. We feel the fact that the witness sent these two
3 letters and then subsequently became involved in this pro-
4 ceeding and brought certain allegations against Carolina
5 Power and Light Company and other persons, that has a direct
6 bearing -- or, the letters have a direct bearing on her
7 credibility.

8 JUDGE KELLEY: All right. Proceed.

9 BY MR. HOLLAR: (Continuing)

10 Q Ms. Miriello, I would again like to --

11 JUDGE KELLEY: May I just add one thing? Yester-
12 day's entire discussion, the whole stipulation, had to do
13 with probing into the personal life of witnesses which the
14 Board did not wish to do, not just wish to do but felt under
15 the applicable legal principals we weren't necessarily
16 required to do.

17 That all ended up in a stipulation. We certainly
18 did not establish by that whole discussion that credibility
19 was not part of this case. It is.

20 At the election of counsel, if you want to get
21 into credibility, you can do that. Go ahead.

22 MR. HOLLAR: Thank you.

23 BY MR. HOLLAR: (Continuing)

24 Q Mr. Miriello, I would refer you to Page 5 of
25 your August 9-10 letter. Are you there?

#4-2-SueW

1 A I certainly am.

2 Q In the first paragraph at the top of the page,
3 there is a section that begins with, "The man who was my
4 CP&L supervision..."

5 Do you see that?

6 A No, I don't. Could you be clearer?

7 Q Yes. "The man who was my CP&L supervision while
8 I worked at NES at Harris was Mr. Tom Brombach."

9 A Uh-huh.

10 Q Do you see that?

11 A Uh-huh.

12 MR. RUNKLE: Please state yes or no for the
13 record.

14 WITNESS MIRIELLO: I'm sorry. Yes, I do.

15 BY MR. HOLLAR: (Continuing)

16 Q Would you read the remainder of that paragraph,
17 beginning with the sentence that begins, "The man who...?"

18 A "The man who was my CP&L supervision while I
19 worked for NES at Harris was Mr. Brombach. He was fair.
20 He never accused me or considered me guilty without at least
21 asking me what happened and why." Which is true.

22 However, the way he conducted business was often
23 different. He was fair in personal relationships.

24 Q That's --

25 JUDGE KELLEY: I'm sorry. Excuse me. I am

-3-SueW

1 following on my copy and I don't --

2 BY MR. HOLLAR: (Continuing)

3 Q Ms. Miriello, I asked you to read the paragraph.
4 I didn't ask for a commentary.

5 A Oh, I'm sorry.

6 JUDGE KELLEY: Could we do -- could you read
7 that portion again, and then we will have it clear?

8 WITNESS MIRIELLO: "The man who was my CP&L
9 supervision while I worked for NES at Harris was Mr.
10 Brombach. He was fair. He never accused me or considered
11 me guilty without at least asking me what happened and
12 why."

13 BY MR. HOLLAR: (Continuing)

14 Q There is one more sentence.

15 A "Tom Brombach is honest."

16 Q Ms. Miriello, at the time that you wrote that
17 statement, did you believe that to be a true statement?

18 A I thought at the time --

19 Q Yes or no.

20 A At the time, I thought it was. But I found out
21 now that it wasn't.

22 Q Ms. Miriello, I would like to also turn your
23 attention to Applicants' Exhibit Number 43. The paragraph
24 at the bottom of the page, Page 1, would you please read
25 that paragraph into the record, please?

#4-4-SueW

1 A Where it starts with "However," or am I on
2 the wrong --

3 Q I believe you are on the wrong document. This
4 is your August 12 letter, Page 1.

5 A Okay. "If..." It begins with --

6 Q Yes.

7 A "If forced to quit or fired, I have nothing to
8 lose. Therefore, if I must leave commercial nuclear power
9 due to this type of discriminatory situation or feeling as
10 a woman I am not being allowed to participate as men do
11 at the Shearon Harris plant, then I will put my intelligence
12 to use stopping a male chauvinistic enterprise. I will
13 use my knowledge as a means of intervention."

14 Q Ms. Miriello, is that a statement that you made --
15 or, a statement that you wrote to Mr. McDuffie?

16 A It's there in the letter, isn't it?

17 Q Yes or no?

18 A Yes.

19 Q Thank you. Ms. Miriello, prior to your employ-
20 ment by Carolina Power and Light Company, were you employed
21 by Nuclear Energy Services at the Shearon Harris plant?

22 A Yes, I was.

23 Q Was that employment approximately from April of
24 '84 to February of 1985?

25 A Yes, it was.

-5-SueW

1 Q Was your job title data controller?

2 A It was engineer on my salary sheet.

3 Q Is it true that your salary scale was as an
4 engineer but your job function was as a data controller?

5 A No. My job function was both as an engineer
6 and as a data controller. I controlled writing non-conformance
7 for in-service inspection on piping in addition to data
8 control.

9 Q Ms. Miriello --

10 JUDGE KELLEY: Excuse me. Let me just check.

11 Is that light bothering you?

12 WITNESS MIRIELLO: Oh, no.

13 JUDGE KELLEY: Okay. All right, go ahead.

14 BY MR. HOLLAR: (Continuing)

15 Q Ms. Miriello, at the time you left NES and became
16 a CP&L employee, did you go through the quality check
17 program at the Shearon Harris plant?

18 A Yes, I did.

19 Q I would like to turn your attention to the docu-
20 ment that has been marked as Applicants' Exhibit Number 41
21 entitled, "Employee Exit Questionnaire."

22 Is that a document that was --

23 MR. RUNKLE: Excuse me. I must object at this
24 point to stop this line of questioning. We --

25 MR. HOLLAR: Your Honor, there isn't even a

#4-SueW

1 question pending.

2 JUDGE KELLEY: Let's get up to a question, and
3 then you can come in.

4 MR. RUNKLE: All right.

5 JUDGE KELLEY: Go ahead.

6 MR. HOLLAR: Thank you.

7 BY MR. HOLLAR: (Continuing)

8 Q Ms. Miriello, is this a questionnaire that was
9 completed and signed by you?

10 A Yes, it is.

11 MR. RUNKLE: I would object.

12 JUDGE KELLEY: All right. Let's hear the objection
13 Mr. Runkle.

14 MR. RUNKLE: Again, this exhibit is irrelevant
15 to the testimony of this witness.

16 JUDGE KELLEY: Let me ask, Mr. Hollar, are you
17 offering this also for credibility rather than direct
18 bearing on the testimony?

19 MR. HOLLAR: Your Honor, I think we are offering
20 it for both puproses. Ms. Miriello's testimony, as it stands
21 now, makes certain allegations about events she observed in
22 October of 1984.

23 This form was completed subsequent to that.

24 JUDGE KELLEY: Let me make sure I understand.
25 And so, what follows? This is exit from CP&L, correct?

7-SueW

1 MR. HOLLAR: Yes, that's correct. She, in her
2 testimony, says that she observed drug activity in October
3 of 1984.

4 JUDGE KELLEY: Okay.

5 MR. HOLLAR: Yet, there is no report of any
6 quality concern demonstrated in this document which was
7 signed in February of 1985.

8 JUDGE KELLEY: So, the document that you are
9 referring to is designed in part to elicit reports of
10 problems; is that where you are headed?

11 MR. HOLLAR: Yes.

12 JUDGE KELLEY: All right. How do you respond
13 to that, Mr. Runkle?

14 MR. RUNKLE: It wasn't my understanding from
15 testimony by previous witnesses that this kind of form
16 or this process was to elicit all observations of drug
17 use on site.

18 It seemed to me it was to be used for safety-
19 related --

20 JUDGE KELLEY: Are you saying that drug use
21 is not safety-related, Mr. Runkle?

22 MR. RUNKLE: If you will look at the testimony,
23 what I think counsel was referring to, the testimony goes
24 to observing workers that are smoking marijuana.

25 JUDGE KELLEY: Are you going to stipulate out

#4-8-SueW

1 the use of marijuana at the Shearon Harris site so we can
2 just forget about that?

3 MR. RUNKLE: No, sir.

4 JUDGE KELLEY: And yet you are saying -- it
5 seems to me you are trying -- you are on both sides of
6 the street here. Either it's safety-related or it's not.

7 If you are contending it's safety-related, we
8 are treating it as safety-related. We are talking about
9 roaches and all those sorts of things. Then, why shouldn't
10 quality check, the question pick up concerns about mari-
11 juana?

12 MR. RUNKLE: Okay. I will redirect on this
13 question.

14 JUDGE KELLEY: All right. Go ahead.

15 MR. HOLLAR: Thank you.

16 BY MR. HOLLAR: (Continuing)

17 Q Ms. Miriello, I would like to turn your attention
18 to Item Number 2 on Exhibit Number 41. Would you please
19 read the question that is identified beside the Number 2?

20 A "Have you reported any concerns or allegations
21 in regard to the design, fabrication, construction and test
22 start-up or inspection of the Harris Nuclear Project?"

23 Q And did you check the box marked "No" beside
24 that question?

25 A To CP&L, I didn't. But to the authorities, I did.

-9-SueW

1 Q Ms. Miriello, the question requires a yes or
2 a no.

3 A No, not to CP&L.

4 JUDGE KELLEY: Well, the question was I think
5 just, did you check the box no?

6 Isn't that --

7 WITNESS MIRIELLO: Oh, I'm sorry. I did check
8 the box no.

9 MR. HOLLAR: Thank you.

10 BY MR. HOLLAR: (Continuing)

11 Q Ms. Miriello, would you read the question beside
12 the Number 3 on Exhibit Number 41?

13 A "If you reported concerns or allegations, were
14 the results satisfactory?"

15 I checked not applicable.

16 Q Thank you. Finally, Ms. Miriello, would you
17 read the question beside the Number 4?

18 A "Do you have any remaining concerns or allegations
19 which you have not reported?"

20 Q Did you also check the box no there?

21 A I really didn't check anything there.

22 Q Ms. Miriello, is there not a line beside the
23 box "No?"

24 A There's a mark there beside the box but not in it.

25 Q Are you contending, Ms. Miriello, that that line

#4-10-SueW 1 was not intended to be a "No" response there?

2 A I'm contending the whole form. It's an exit
3 question there; I wasn't leaving the site.

4 Q Could you answer the question, Ms. Miriello?

5 A It looks like I missed that box.

6 Q Do you think that you intended to mark the box
7 "No?"

8 A I don't know what I intended. I really didn't
9 care about filling out this form. It's a corporate form.

10 I don't remember what I intended there.

11 Q What does it look like you intended to mark?

12 A What does it look like?

13 Q Yes.

14 A It appears I got close to the "No" box.

15 Q And that you intended to mark the "No" box?

16 A I don't remember what I intended there.

17 Q Ms. Miriello, does it look like from this photo-
18 copy that a part of your mark may have extended into the
19 "No" box?

20 MR. RUNKLE: I would like to object at this
21 point.

22 WITNESS MIRIELLO: Someone else could have
23 extended it.

24 MR. RUNKLE: This question --

25 JUDGE KELLEY: I think that's enough on this. I'm

-11-SueW

1 going to sustain the objection.

2 The mark is the mark. We can all read. Go
3 ahead.

4 BY MR. HOLLAR: (Continuing)

5 Q Ms. Miriello, I would like to turn your attention
6 now to the document that has been marked Applicants'
7 Exhibit Number 44, entitled "Affidavit of Patty Miriello."

8 A I have it.

9 Q Is that an affidavit that you signed on
10 September the 6th, 1985 on behalf of the Conservation
11 Council?

12 A Yes, it is.

13 Q Ms. Miriello, in preparing this affidavit, how
14 did you first contact the Conservation Council?

15 A I had heard about them during the Summer -- no,
16 during the Spring, and also in In-Service Inspection. Phil
17 Temple, told me about the Intervenors and the Conservation
18 Council while I worked at CP&L in the In-Service Inspection
19 Group.

20 And I remembered Mr. Runkle's name being mention-
21 ed, so I called him.

22 Q You telephoned Mr. Runkle?

23 A Uh-huh. He is listed in the Chapel Hill
24 directory I think.

25 Q Did Mr. Runkle work with you in preparing this

4-17-SueW

1 affidavit?

2 A Most of it I already had in writing, which I
3 had given to the F.B.I. in November of 1984.

4 Q Did you actually write the affidavit, or was
5 it written for you?

6 A No. Most of it was taken out of the context of
7 the document I gave to the F.B.I. in February -- I mean,
8 in November of 1984.

9 Q Did you review the affidavit before you signed
10 it?

11 A Yes, I did. But we missed an error, a typo.

12 Q Ms. Miriello, turning your attention to the
13 document that has been marked as Applicants' Exhibit 45.

14 A Which one is that again?

15 Q Conservation Council's Supplement to Discovery
16 Requests.

17 (The witness is looking through documents.)

18 A I really don't think I have that one.

19 MR. RUNKLE: I will give the witness one.

20 (Mr. Runkle provides the witness with a paper.)

21 WITNESS MIRIELLO: I do now.

22 BY MR. HOLLAR: (Continuing)

23 Q Ms. Miriello, in the middle of the one page
24 document, there is a sentence that begins, "Ms. Murrell."

25 Do you see that?

-13-SueW

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A It looks like a typo. Yes.

Q That should be "Miriello," should it not?

A Yes, it should.

Q Would you please read that sentence?

A "Ms. Miriello contacted us this past week-end and we became aware of details which have been placed in the affidavit only in the past two days."

Q And this document is dated September the 6th; is that correct?

A Yes. But I had called Mr. Runkle previous to that and we had discussed things.

Q The document is dated the 6th?

A Yes, it is.

Q Ms. Miriello, is the weekend previous to the 6th, the Saturday and Sunday previous to the 6th, would that be August the 31st and September the 1st?

A Yes, it would be.

Q Does this mean that you contacted Mr. Runkle one or two days after the termination of your employment with Carolina Power and Light Company?

A I think I contacted him before that. I don't precisely remember which days I talked to Mr. Runkle.

Q Is Mr. Runkle incorrect?

A I did contact him as he states in the affidavit. But I also contacted him I think before that.

#4-14-SueW

Q Ms. Miriello, I would like to again turn your attention to your affidavit, Exhibit 44.

A I'm at it.

Q In the first paragraph of that affidavit, it states: "I was employed by Nuclear Energy Services."

But there is no mention of your having been employed by Carolina Power and Light Company. I note in that regard that your testimony reflects that you were also employed by Carolina Power and Light Company on Page 2.

Why did you not acknowledge in the affidavit that you were employed by Carolina Power and Light Company?

A It was just a mistake. It's in my resume, and it's obvious.

Q Did you just forget that you were employed by CP&L?

A No, no. It was just left out of that sentence. It was an accident.

Q Was your resume filed with the affidavit?

A A copy of my resume was available. Nobody picked up on it. It was just an accident.

Q Turning to your testimony, Ms. Miriello, at the question at the top of Page 2, actually the third question on Page 2, which asks what capacity and how long you were employed at the Harris plant --

MR. RUNKLE: Do you mean -- are you referring to

4-13-SueW 1

Page 2 of the prefiled testimony, sir?

2

MR. HOLLAR: Yes.

3

WITNESS MIRIELLO: Yes, go ahead.

4

BY MR. HOLLAR: (Continuing)

5

Q Does the job description in your answer to that

6

question describe only your job function as an NES employee

7

and not your job functions as a CP&L employee?

8

A Could you repeat that question, please?

9

Q Certainly. Does your -- does the answer to

10

that question refer only to your job functions while you

11

were an NES employee and omit a description of your job

12

functions while you were a CP&L employee?

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1 A The question asked me if I had ever worked at
2 the Harris Nuclear Plant, and I plainly state I was employed
3 by both Nuclear Energy Services and also by Carolina Power
4 and Light in the time periods from April 1984 through
5 August 1985.

6 Q I am referring to the last sentence to that
7 answer.

8 A It states correctly, I was an engineer in in-service
9 inspection. Maybe I should have a second sentence in there
10 stating that I also worked in health physics, but that is in
11 my resume.

12 Q So, the answer is you were only referring to your
13 duties as an NES employee?

14 A Basically, the whole affidavit pertains to my
15 duties only as an NES employee.

16 As a contractor of CP&L.

17 Q So, the answer is yes?

18 A Could you restate that question again?

19 Q The answer -- the answer on page 2 of your
20 testimony only describes your duties as an NES employee?

21 A Yes, this does.

22 Q Thank you . Ms. Miriello, I would now like to
23 refer you to your next answer on that page. When did you
24 receive your Masters Degree in Ceramic Science from Penn
25 State?

1 A The M.S. in Ceramic Science is complete. The
2 thesis is in review, and all that needs to be done is go
3 to the typist.

4 I have fifty credits complete, whereas only
5 thirty are required. It has not been finalized yet, but
6 it is complete. I do have an M.S. in Ceramic Science. It
7 hasn't been officially conferred.

8 Q Ms. Miriello, is it possible to receive a
9 Master's Degree without having one's thesis approved?

10 A The thesis -- really, it is a matter of getting it
11 to the typist. It is in the stage where there might be a
12 few corrections, but it is a matter of getting it to the
13 typist.

14 And it is typical in industry in the State that
15 the Masters Degree is done, because people can check with the
16 university and say, yes, it is a matter of finalizing the
17 thesis.

18 Q Ms. Miriello, do you have a diploma from Penn State,
19 a Masters Degree diploma from Penn State in Ceramic Science?

20 A Not yet.

21 Q Ms. Miriello, are you currently enrolled in the
22 Masters Program in Nuclear Engineering at NC State University?

23 A I am currently finishing an MS there.

24 Q Are you currently taking classes?

25 A No; I assume taking classes in January. Right

1 now I am working on picking out a thesis topic, and I am
2 constantly in contact with the University. Dr. Luckie there.

3 Q Have you taken classes in the MS program in
4 Nuclear Engineering in the past at NC State?

5 A Yes, I have.

6 Q At NC State?

7 A Yes, I have.

8 Q But you are not taking classes now?

9 A No, but I am working on a thesis topic. I am
10 deciding on which one, and conferring constantly with the
11 university.

12 Q Ms. Miriello, I would like to turn your attention
13 to page 4 of your testimony.

14 In the answer that begins on about the middle
15 of that page, you discuss a couple of incidents involving
16 observations of marijuana at the Harris plant.

17 Why did you not include a description of either
18 of these particular incidents in the affidavit that was
19 filed on September the 6th?

20 A I had been asked to go through what I had remembered
21 about Harris and drug abuse there, and put down all my
22 thoughts in writing, and this was after that affidavit was
23 filed on September 6th.

24 I was asked if I had seen additional drug abuse,
25 which I had seen.

1 Q Were these incidents so insubstantial that you did
2 not recall them before September the 6th?

3 A No, I recalled them, but the priority there was
4 the safety issue with the steam generator tubing, and we were
5 in a rush to get that brought to the attention of the
6 public.

7 Q Ms. Miriello, referring to your statement that you
8 observed seven or eight construction workers up on the boilers
9 obviously smoking marijuana, do you have the names of any
10 of those individuals?

11 A I don't.

12 Q Do you have any work crew identification for any
13 of those individuals?

14 A Yes. Not the work crew, but the hats. They
15 were wearing tan hats, and there were people always in the
16 area working outside around those boilers, and the service
17 building at the Harris plant.

18 Q Mr. Miriello, I turn your attention to the last
19 sentence of that paragraph, where it says: This was in plain
20 view of the administration building.

21 Are you contending that someone in the administration
22 building would have been able to see workers smoking marijuana
23 on the boilers?

24 A No, but they would be able to see a work crew
25 congregating in a place during working hours where they should

1 not have been.

2 I have never seen that many people on those
3 boilers at one time before.

4 JUDGE KELLEY: Excuse me. If we are talking
5 about juxtaposition of buildings, can we at some time
6 establish what are they boilers, where are they? If
7 you are headed that way -- if you are headed that way I am
8 not asking a question yet, I am just concerned about a long
9 record talking about boilers and the administration
10 building, and I want to know what it means, so if you could
11 in some manner get into that.

12 I will leave it to Mr. Hollar in the first instance
13 to bear it in mind.

14 BY MR. HOLLAR: -(Continuing)

15 Q Ms. Miriello, are you referring to the auxiliary
16 boilers that are between the service building and the water
17 treatment building at the Harris plant?

18 A Yes, I am.

19 Q Do you know the distance of those boilers from
20 the administration building?

21 A Yes. The service building -- plus the parking --
22 well, not the parking, but the lawn area in front of the
23 administration building.

24 Q Would it surprise you to find that that distance
25 is approximately 660 feet?

1 A No.

2 Q Would it surprise you to find that the service
3 building is between the administration building- and the
4 boilers?

5 A I don't think it totally blocks the view of the
6 boilers?

7 Q It does obscure the view, doesn't it?

8 A It does, but it doesn't totally block it.

9 Q Ms. Miriello, referring to your next paragraph,
10 in which you alleged you smelled marijuana in the Daniel
11 parking lot, do you have the names of any individuals who
12 were smoking marijuana in the parking lot?

13 A No, I didn't walk over to the cars and look
14 inside, or take license plates -- I mean take the numbers
15 off of the plates.

16 MR. HOLLAR: Your Honor, that completes my
17 cross-examination.

18 I would like to move the admission of Applicants'
19 Exhibit No. 41, the employee exit questionnaire, in view of
20 the fact that the witness did not make an identification of
21 her responses to all of the questions.

22 JUDGE KELLEY: Any objections?

23 MR. RUNKLE: I would not object for that limited
24 purpose.

25 JUDGE KELLEY: While it is being put in for general

1 purposes, I thought the argument for focusing. Am I right?

2 MR. HOLLAR: Yes. I am moving its admission.

3 JUDGE KELLEY: Right. Okay. There is no objection,
4 so it is admitted.

5 MR. EDDLEMAN: Judge, I wanted to object. And
6 my grounds for the objection is fairness. When the Applicants
7 have objected to something that has not been prefiled as
8 of the date of the simultaneous prefiling, which is a rule
9 that they asked for, that they have sometimes insisted that
10 it be put in for a limited purpose, and therefore I think
11 it is appropriate here to put it in for the limited purpose
12 that Mr. Hollar stated.

13 Unless he has some other purpose that he can bring
14 forward and argue.

15 JUDGE KELLEY: I would like to hear comment from
16 counsel on whether or not Mr. Eddleman is entitled to object
17 to the evidence that is being offered under the Prairie Island
18 doctrine.

19 Mr. Baxter? Mr. Hollar?

20 MR. HOLLAR: Your Honor, I believe that --

21 JUDGE KELLEY: If you will all stipulate that
22 we can hear objections from Mr. Eddleman, then I suppose you
23 will hear them, --

24 MR. BARTH: Not I.

25 MR. HOLLAR: Your Honor, Mr. Eddleman has not offered

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1 this witness, and it is not his contention, and I believe
2 he should not be permitted to object in this case.

3 JUDGE KELLEY: Mr. Barth?

4 MR. BARTH: Your Honor, addressing the question
5 you asked on the Prairie Island, the ability to ask cross-
6 examination only in matters upon which he has interest.

7 You have extended him this courtesy, over my
8 objections. The Prairie Island decision by the Commission
9 gives him no authority to interject himself into the
10 objection or consent to the admission of documents on
11 contentions that are not his. It is not his contention,
12 and he is improperly before the Board, Your Honor, on this
13 matter.

14 JUDGE KELLEY: Mr. Cole, just as background,
15 I don't know if you have read the Prairie Island decision
16 recently, but there was an issue before the NRC, and it
17 was the very first adjudicatory matter, as a matter of
18 fact, the citation is one that the NRC won, and it was
19 where one intervener had a contention, and another intervener
20 wanted to cross-examine.

21 And the Licensing Board barred it, I believe.
22 The Appeal Board let it in, and the Commission, on review,
23 said yes, an intervener at least in some circumstances can
24 come in and ask some questions on the other intervener's
25 contention.

1 I don't believe the case reaches the question
2 whether you can object to the introduction of evidence,
3 or other matters. So, as far as I know, it is sort of an
4 open question from a precedent standpoint. But the broad
5 issue we see is since this is CCNC's contention, and
6 they are essentially the ones that are in charge, whether
7 we should have other interveners coming in and participating
8 to the extent of objections.

9 Do you have any views on it one way or the
10 other?

11 MR. COLE: You are talking to me, Your Honor?

12 JUDGE KELLEY: I am sorry. I wasn't sure who
13 was up this morning. Okay.

14 MR. COLE: Your Honor is correct, I have not
15 read the Prairieview decision.

16 JUDGE KELLEY: Prairieview is a school in Texas
17 with fine football players. This is Prairie Island, that
18 is in Minnesota.

19 But anyway --

20 MR. COLE: That shows I haven't read the case,
21 Your Honor. My views on it, am I assuming that I am arguing
22 as to whether or not I will be allowed to ask questions
23 of --

24 JUDGE KELLEY: No, no, no. Not at all.

25 MR. COLE: Participating in argument on motions,

1 is that your question?

2 JUDGE KELLEY: No. You are an interested state.
3 That is a different rule. You don't have to express an
4 opinion on this one way or the other. I am just asking
5 you whether you have got one, and whether you want to express
6 an opinion on it.

7 MR. COLE: Well, if you were to ask me should
8 Mr. Eddleman be allowed to participate, my answer would be
9 yes.

10 JUDGE KELLEY: That is not what I am asking you.
11 Participate. What does participate mean? Of course he is
12 participating, he is cross-examining. He has been doing it
13 at some length for the past four days.

14 My question is: Can he come in and object to the
15 introduction of evidence?

16 MR. COLZ: I would say that Mr. Eddleman would
17 certainly be entitled to participate in examination. I
18 would say that you would be correct if you said he could
19 not participate in arguments on motions and introduction of
20 evidence.

21 JUDGE KELLEY: Thank you. Mr. Eddleman?

22 MR. EDDLEMAN: I haven't got an argument out of
23 Prairie Island. I just think it is a matter of fairness.

24 If CCNC wants to be nicer to the Applicants'
25 than they are to us Interveners, I guess CCNC has that right.

1 I would leave it in the Board's discretion, since
2 I don't think there is precedent on it.

3 JUDGE KELLEY: There isn't as far as I know.
4 But that happens all the time in Boards. You get questions,
5 and you have to decide on whether there is a precedent or
6 not.

7 If you want to withdraw your objection, there
8 would still be no precedent, and then if you want to press
9 it, we will make a ruling.

10 MR. EDDLEMAN: Judge, I don't know that the NRC
11 will continue long enough, since there aren't many more
12 nuclear plants being brought up, but I think I would like
13 to see if we can get a precedent here, so I think I will
14 stand on my objection.

15 JUDGE KELLEY: Okay.

16 (Board confers.)

17 JUDGE KELLEY: The point here about the entitlement
18 of the intervener whose contention it is not to object to
19 the introduction of evidence was raised sur responde
20 pretty much, but it is the Board's feeling that the lead
21 intervener -- the intervener in charge here, so to speak,
22 is Mr. Runkle.

23 Now, certainly Mr. Runkle and Mr. Eddleman can
24 confer, and they have been doing so, but if the counsel for
25 the party that has the contention says no objection, then

1 we think the evidence ought to go in, and the intervenor who
2 was hear on the lead intervenor's coat tail so to speak,
3 does not have an independent right to make objections.

4 And so we so rule, and the evidence is admitted.

XX INDEX

5 (The document previously identified
6 as Applicants' Exhibit No. 41, is
7 admitted.)

8 MR. EDDLEMAN: Judge, if that is your ruling, that
9 is your ruling. I would like to say for the record that
10 I think the record will show that Mr. Runkle didn't say he
11 had no objection, but rather that he had no objection if
12 it were used for the limited purpose that Mr. Hollar stated,
13 but the record will reflect that.

14 JUDGE KELLEY: Well, I sit on the other side of
15 the table, and then we went through that, and Mr. Runkle I
16 thought nodded or assented. I didn't hear anything.

17 And at that point as far as I was concerned
18 CCNC, represented by Mr. Runkle and not by you, was not
19 objecting to this evidence.

20 We went through this whole argument without
21 Mr. Runkle coming in and saying you misunderstood me.
22 I thought that you said okay, Mr. Runkle, is that right?

23 It is a little late, but that is my understanding.

24 MR. RUNKLE: I stated my position. I had no
25 objection for limited purpose. You said it came for any

1 general purpose. I did not say that I objected on that
2 grounds.

3 JUDGE KELLEY: Fine. So we interpret that to
4 mean no objection.

5 MR. RUNKLE: Yes, sir.

6 JUDGE KELLEY: And we hold that Mr. Eddleman may
7 not then come in and object on his own behalf, so the evidence
8 is in.

9 That takes us back to Mr. Hollar? Or Mr. Hollar
10 said he was through.

11 MR. HOLLAR: Yes, Your Honor. I am finished
12 with cross-examination.

13 JUDGE KELLEY: A ten minute break.

14 (Short recess taken.)

15 End 5
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1 JUDGE KELLEY: Back on the record.

2 This would take us to Mr. Cole.

3 MR. BRYANT: Are we going to reverse the order
4 here. Would not Mr. Eddleman now proceed?

5 JUDGE KELLEY: Well, I think yesterday in fact --
6 You are right, we had gone from Mr. Runkle to Mr. Eddleman.

7 Go ahead, Mr. Eddleman.

8 CROSS-EXAMINATION

9 BY MR. EDDLEMAN:

10 Q Good morning, Mr. Miriello.

11 A Good morning.

12 JUDGE KELLEY: Oh wait just a minute, excuse me.
13 This is cross. Now this is a witness proffered by CCNC,
14 correct?

15 (Board conferring.)

16 JUDGE KELLEY: This raises a related question,
17 and I am sort of going automatically to Mr. Eddleman. Here
18 we have eliciting additional direct it would appear.

19 Is that your intent, Mr. Eddleman?

20 MR. EDDLEMAN: Judge, as I understand it, when
21 you ask cross you have got to ask isn't it or wasn't it
22 or something like that, and, you know, that is what I am
23 going to do. I don't have a whole lot of questions.

24 I am not trying to say now, Ms. Miriello, do
25 you have any additional direct. That is Mr. Runkle's job

Sim 6-2

1 on redirect, as I understand it or on direct or whatever.
2 I am not a lawyer enough to tell you.

3 JUDGE KELLEY: Any objection to Mr. Eddleman's
4 asking a few questions?

5 MR. BARTH: We do, Your Honor.

6 JUDGE KELLEY: All right, Mr. Barth.

7 MR. BARTH: The purpose of cross-examination is
8 to show some inconsistency in an opposition witness' testi-
9 mony, which is direct.

10 Certainly, it is the best of my knowledge that
11 Ms. Miriello is not opposed to Mr. Eddleman's interests and
12 he could have no cross-examination in interest. All he
13 can do at the present time is make additional friendly
14 cross, which is actually redirect.

15 This is not time to put on direct testimony
16 under the guise of cross-examination. She is not hostile
17 to Mr. Eddleman or is he hostile to her. They have a
18 commonality of interests which would prohibit cross, Your
19 Honor.

20 Thank you.

21 JUDGE KELLEY: So are you contending that the
22 Prairie Island doctrine just supports cross and not what
23 you might call redirect or further direct?

24 MR. BARTH: That is correct, Your Honor.

25 JUDGE KELLEY: Mr. Hollar?

2m 6-3

1 MR. HOLLAR: Your Honor, applicants have no
2 objection to Mr. Eddleman asking a few questions so long
3 as they limited to the direct testimony and are not designed
4 to expand Ms. Miriello's direct testimony.

5 JUDGE KELLEY: Very well, any comment, Mr. Cole?

6 MR. COLE: I will make the same inquiry,
7 Judge Kelley. Am I answering something that will preclude
8 me also?

9 JUDGE KELLEY: No.

10 MR. COLE: I certainly have no problem with
11 Mr. Eddleman asking questions. I don't know what Mr. Hollar
12 means when he talks about expansion. I would certainly
13 say he should be able to ask on matters that are at least
14 set forth in Ms. Miriello's affidavit or the inferences
15 derived therefrom, questions about that.

16 JUDGE KELLEY: I thought that was consistent
17 with what Mr. Hollar had said.

18 MR. COLE: It may be, Your Honor.

19 JUDGE KELLEY: Is that a fair statement,
20 ~~Mr.~~ Hollar?

21 MR. HOLLAR: I don't think what Mr. Cole just
22 said is inconsistent with what I suggested.

23 MR. COLE: Thank you, Mr. Hollar.

24 JUDGE KELLEY: All right. Well, the Board's
25 sense is if you have a few questions, Mr. Eddleman, and

Sim 6-4

1 you stay within the general parameters of the testimony
2 already before us, we will permit that.

3 BY MR. EDDLEMAN:

4 Q Mr. Miriello, let me refer you to the question
5 and answer that begins at the bottom of page 4 of your
6 prefiled testimony concerning the drug testing programs of
7 CP&L. Do you have that before you?

8 A Yes, I do.

9 Q You state there that if a worker has worked for
10 CP&L, Daniels or any of the other contractors, and I presume
11 that means instead of contractor, for three years or more,
12 he or she does not have to take a urine test. Were you
13 required to take a urine test when you transferred to CP&L
14 from NES?

15 A Yes. I was.

16 Q How much notice of that did you get?

17 A One of the employees in John Ferguson's office
18 called me and asked if I would like to take a urine test
19 within the next couple of weeks.

20 Q And what did you say?

21 A She asked me to pick practically a day. She said
22 when it will be convenient for me, and I said well, I would
23 like to take it in two weeks. And she responded that it
24 would be better to get it done as soon as possible. Therefore,
25 I took it the following week, but there was a period of about

lm6-5

1 seven days in between the conversation on the phone and when
2 I actually took the urine test.

3 Q Right. The degree in ceramic engineering, or
4 materials -- ceramic science; is that correct?

5 A That is correct if you are referring to the master's.

6 Q Yes. Do you have Mr. Hollar's -- I think it is
7 marked as Exhibit 43, the August 12th letter to Mr. McDuffie?

8 A Yes I do, as soon as I find it.

9 (Pause.)

10 I have it here now.

11 Q Can you tell us why you attached your resume to
12 that letter?

13 A I wanted to show him I had worked at the plant
14 and that I had been in in-service inspection and worked in
15 health physics. I mean M. A. McDuffie would not have even
16 known that I was an employee really.

17 Q Okay. Can you tell me when that resume that
18 you attached to that letter to Mr. McDuffie was prepared?

19 A That is a resume I am currently using.

20 Q I mean was it made up this spring, or do you know
21 when it was made up?

22 A It has been used I would say since the spring and
23 it is currently being used now.

24 JUDGE KELLEY: The Board would just like to note
25 that this is obviously redirect. If you want to do a little

31m 6-6

1 bit of it, okay, but ---

2 MR. EDDLEMAN: Judge, I am setting up a question
3 which I am going to ask right now.

4 JUDGE KELLEY: Okay.

5 BY MR. EDDLEMAN:

6 Q Ms. Miriello, if you wanted to conceal the nature
7 of the situation of your thesis in the granting of that degree
8 in ceramic science from CP&L or anybody else, why is it in
9 your resume?

10 A It is obviously there. I have no intention to
11 conceal it. It is typical in industry to say once you have
12 our course work and your thesis written that you have the
13 master's degree. And right now I am applying for jobs and
14 people are offering me positions based on that master's
15 degree and offering me salaries based on that master's degree.
16 They know it is a formality having a thesis typed and the
17 degree conferred.

18 MR. EDDLEMAN: All right.

19 JUDGE KELLEY: As I just observed, this is redirect.
20 We can hear it now or we can hear it later. That is okay. But
21 that wasn't what I thought you had in mind, Mr. Eddleman.

22 MR. EDDLEMAN: Well, I may not be phrasing the
23 questions the right way, Judge.

24 JUDGE KELLEY: It isn't phraseology, Mr. Eddleman.
25 This is so obvious redirect. Have you got other points that

6-7 1 you want to develop having to do with the substance of this
2 witness' testimony that are not too collateral? If not,
3 we will move on to somebody.
4

5 MR. EDDLEMAN: Judge, I may not understand what
6 too collateral means, but I will defer to Mr. Cole at this
7 point.

8 JUDGE KELLEY: Okay. Mr. Cole.

9 CROSS-EXAMINATION

10 BY MR. COLE:

11 Q Ms. Miriello, let me call your attention to your
12 filed testimony on page 6.

13 A Okay.

14 Q The question actually starts on page 5 wherein
15 you were asked from your observations is drug abuse at the
16 Harris plant widespread, and you replied yes.

17 Other than matters which have previously been
18 withdrawn from testimony or from those matters that you have
19 already testified to, are there other incidences which you
20 have personal knowledge of which go to make up this
21 observation?

22 MR. HOLLAR: Objection. Your Honor, if the
23 witness had other incidences of drug use at the plant, the
24 ground rules of the proceeding were that that information
25 was to have been prefled in direct testimony on September
the 23rd.

Sim 6-8

1 JUDGE KELLEY: Mr. Cole, any response?

2 MR. COLE: Well, if Your Honor please, I realize
3 that Ms. Miriello, the two specific instances, if they are
4 specific, talk about the parking lot and the boilers. But
5 her last question is a broad question with a very broad
6 answer wherein she says that drug abuse is widespread.

7 I just want to inquire into what she means by
8 widespread. If you would like to rephrase the question,
9 then she can answer it any way she wants.

10 JUDGE KELLEY: I understand the question, but don't
11 you understand the objection?

12 MR. COLE: Yes, sir, I understand the objection.

13 JUDGE KELLEY: It is a situation where on the one
14 hand the Board wants to get the facts, and on the other hand
15 we do have some fairness considerations obtaining here and
16 whatever people had to say was supposed to be said on the
17 filing date.

18 So to open this up in some wide-open fashion ---

19 MR. COLE: I fully understand that, Your Honor.

20 JUDGE KELLEY: Excuse me a moment.

21 (Board conferring.)

22 JUDGE KELLEY: Let me just paraphrase the question
23 and the objection.

24 The question goes to whether Ms. Miriello knows
25 of other matters underlying her conclusory sentence that

im 6-9

1 drug use is widespread at the site other than those referred
2 to in her testimony, and the objection is that such matters
3 should have been brought out in the prefiled and we are now
4 focusing on the prefiled and inferences from that and not
5 on new matters.

6 Strictly speaking, the objection is well founded
7 in law and we could very well sustain it. On the other hand,
8 we have been trying with all of our witnesses to find out
9 what they know about drug use at the site, and we also think
10 that if eliciting an answer to this question or this kind of
11 question gets us into procedural difficulties and it raises
12 fairness problems, we can deal with that when the time comes.
13 It may not.

14 So we are going to with some reluctance overrule
15 the objection and allow the question.

16 Maybe you ought to restate it, Mr. Cole.

17 BY MR. COLE:

18 Q Let's see if I can, Your Honor.

19 Ms. Miriello, other than matters that have been
20 previously withdraw from testimony or matters to which you
21 have already testified, are there other instances which you
22 have personal knowledge of which go to make up your observation
23 that drug abuse is widespread?

24 A Yes, there are.

25 Q What are they, please, ma'am?

Sim 6-10

1 A It involves myself being offered cocaine by another
2 contractor employee, and the offer was made on site.

3 Q I don't know if it would do any good to mention
4 the name, but do you recall about when that was, Ms. Mirriello?

5 A Yes. That was the month of October 1984.

6 Q In fairness to everyone, Ms. Miriello, and state if
7 you know, was that a CP&L employee?

8 A He was a contractor employee to CP&L.

9 Q To your knowledge, has CP&L dealt with that
10 problem and has that employee been terminated?

11 A He has been removed from the site or released from
12 the site, as they term, but I don't know if the reasons were
13 for drug use. I don't know what the reasons were.

14 Q But, to your knowledge, he is no longer on the
15 CP&L Shearon Harris plant site?

16 A No. He was only there from October 1st until the
17 very end of October.

18 Q All right. Are there any other incidences that
19 you recall?

20 A In the NES group, which I had worked in, some of
21 those employees indicated that they had done drugs.

22 JUDGE KELLEY: Excuse me. Let me just make an
23 inquiry.

24 MR. COLE: Yes, sir.

25 JUDGE KELLEY: We had the stipulation yesterday

a 6-11

1 which withdrew certain portions of your testimony, as you
2 know, and then in exchange the applicants agreed to certain
3 things and that was that as to those matters.

4 My question was, and I don't know, but my question
5 is whether the incidences that are you beginning to describe
6 is not essentially a part of what was withdrawn.

7 THE WITNESS: No, it is not. These were ultra-
8 sonic inspectors. They were not part of the Conam
9 organization.

10 JUDGE KELLEY: It had nothing to do with the
11 Conam organization?

12 THE WITNESS: No, sir.

13 JUDGE KELLEY: All right, fine.

14 MR. HOLLAR: Judge Kelley?

15 JUDGE KELLEY: Yes.

16 MR. HOLLAR: I am going to have to renew my
17 objection to this material. Ms. Mirriello had an opportunity
18 to prefile any allegations of drug use in the written
19 testimony on September the 23rd. If she chose not to do
20 that with these particular allegations, and now is seeking
21 to raise a whole new set of allegations, it creates a very
22 fundamental question of fairness to the applicants.

23 JUDGE KELLEY: We understand that, Mr. Hollar.
24 I think you have a standing objection to this line of
25 questions. We thought about it. We haven't decided yet what

Sim 6-12

1 we are going to do about it, but we did decide we would
2 hearing the answer to the question.

3 So I don't think you are making really a new
4 objection, are you?

5 MR. HOLLAR: No, it is not a new objection.

6 JUDGE KELLEY: It should have been prefiled, right?

7 MR. HOLLAR: That is absolutely correct.

8 JUDGE KELLEY: You are right. I agree with you.

9 But we still have some discretion to go ahead and listen
10 to the answer we believe, and that is what we are doing.

11 Go ahead.

12 MR. COLE: Go ahead, Ms. Mirriello.

13 THE WITNESS: The people who had said they had
14 used drugs in the NES organization were working on inspection
15 of piping at Harris. When they told me the time periods
16 that they had used the drugs, it involved their inspections
17 at the V. C. Summer nuclear plant in South Carolina previously.

18 JUDGE KELLEY: Excuse me. Ms. Miriello, I am
19 not sure if you followed this. The Board has been rather
20 interventionist in the last few minutes. I am concerned about
21 some boundaries here.

22 I don't understand why you didn't bring these
23 matters up in your prefiled testimony. Would you give us
24 an explanation of that, please?

25 THE WITNESS: Yes. We were pushed for time. The

Sim 4-13

1 timing of the Atomic Safety and Licensing Board hearings
2 was so close to the time that I was fired, we were rushed to
3 get these allegations all put into writing, into an affidavit.

4 MR. HOLLAR: Your Honor, I would point out that
5 Ms. Miriello's testimony was filed on September the 23rd and
6 she was terminated on October the 30th.

7 THE WITNESS: You are wrong.

8 MR. HOLLAR: August the 30th.

9 JUDGE KELLEY: Let me pursue this a little bit.
10 Your answer is that you didn't have time to get it written
11 up to put it in the testimony?

12 THE WITNESS: And plus we were concentrating on
13 the major drug issues here, not the peripheral ones like
14 this. I mean it is not really peripheral, but compared to the
15 magnitude of the eddy current problem.

16 JUDGE KELLEY: All right.

17 Mr. Runkle, do you have anything to add?

18 MR. RUNKLE: No, sir, I really don't.

19 MR. COLE: Your Honor, might I ---

20 JUDGE KELLEY: We will come back to you, Mr. Cole
21 in just a minute.

22 My question now is why this material wasn't in
23 prefiled. Do you have anything to add to what Ms. Miriello
24 said, Mr. Runkle?

25 MR. RUNKLE: No, sir, I don't.

7-1-S20W

1 MR. RUNKLE: No, sir, I don't.

2 JUDGE KELLEY: Did you know at the time you filed
3 her prefiled she had these other matters to raise, and that
4 she intended to raise them, or whether she intended to raise
5 them at the hearing?

6 MR. RUNKLE: No, sir. I did not know these other
7 allegations or observations, and I did not know that she
8 was planning to raise them at this proceeding.

9 JUDGE KELLEY: If you had known, couldn't you
10 have sought an extension of time?

11 If you were really in that much of a crunch to
12 get your testimony written up, couldn't --

13 MR. RUNKLE: Oh, if I had known when we prefiled
14 the testimony, surely, yes, I could have done that.

15 JUDGE KELLEY: You wanted to say, Mr. Cole?

16 MR. COLE: In all honesty, Your Honor, Mr.
17 Runkle may not have known. I can't say that I did not
18 know. The time factor was very close.

19 And just in open candor, I cannot say that I knew
20 this on the 21st, I knew this on the 24th, or any time
21 other than those. The time factor was there.

22 I again was operating under the assumption --
23 it may prove faulty -- that inasmuch as Mr. Runkle was
24 submitting filed testimony on behalf of Ms. Miriello that
25 the State and its interests therein would be allowed to

7-2-SueW

1 cross-examine.

2 I didn't realize that we also had to prefile
3 specific testimony on behalf of Ms. Miriello. So, if any
4 fault lies it really I suppose lies with us more than it
5 does with Mr. Runkle, because I have no idea of knowing
6 what Mr. Runkle knew, of course.

7 JUDGE KELLEY: Let me make sure I understand.
8 Are you saying that you knew of these instances before
9 the deadline?

10 MR. COLE: I cannot say that, Your Honor. I
11 don't know.

12 Ms. Miriello has talked to us, has come in and
13 talked to us. And maybe Ms. Miriello can recall the dates.
14 I do not.

15 JUDGE KELLEY: You didn't take transcripts
16 and so on, you just sat down and talked?

17 MR. COLE: Yes, sir.

18 JUDGE KELLEY: And then you thought that these
19 matters would be in the Intervenor's prefiled so then
20 you could cross on it later; is that what I'm hearing?

21 MR. COLE: Yes, sir.

22 MR. HOLLAR: Judge Kelley --

23 JUDGE KELLEY: Just a minute.

24 MR. COLE: Judge, could I -- maybe we can --
25 again, in trying to offer a solution, I think we are almost

7-3-SueW

1 to the end of what we were about to say anyway. Could I
2 rephrase my question to just inquire of Ms. Miriello
3 whether there were other instances that went into her
4 conclusion?

5 JUDGE KELLEY: That was your question in the
6 first place I thought, and that then produced so far two
7 instances.

8 MR. COLE: Well, I was not -- I'm going to let
9 the question and answer stand when she says yes, there
10 were other instances other than those that she has previously
11 testified to.

12 JUDGE KELLEY: Well, part of the question of
13 fairness here -- and we will hear from the Applicants --
14 is extremely awkward. I must say the idea this couldn't
15 have been written up before I find completely unpersuasive.

16 This is something you can put in a couple of
17 paragraphs. Prepared testimony does not reflect a lot of
18 time and effort. It's something put together rather
19 quickly. Why there couldn't have been another paragraph
20 for each of these two is something that has not been explain-
21 ed.

22 But we are trying to grapple with this. We've
23 had reference now to two things. Are there more matters,
24 Ms. Miriello, that you would say in response to this?

25 WITNESS MIRIELLO: One of the CP&L employees --

-4-SueW

JUDGE KELLEY: I don't want the description.

I want to know if there are more matters, yes or no?

WITNESS MIRIELLO: Yes.

JUDGE KELLEY: How many?

WITNESS MIRIELLO: One that I can think of at the moment.

JUDGE KELLEY: So, there are three altogether?

WITNESS MIRIELLO: Yes.

JUDGE KELLEY: When you say at the moment, have you got another group? We would like to get to the bottom of this.

It should have been in your testimony in the first place.

WITNESS MIRIELLO: No.

JUDGE KELLEY: So, there are three matters. One you told us about, at least in part. The second one you were in the middle of when we started debating. And now there is another one after that if you were allowed to finish the statement.

Is that correct?

WITNESS MIRIELLO: Yes.

JUDGE KELLEY: Mr. Hollar, any comment?

MR. HOLLAR: Your Honor, my only comment is that I agree with your observation that I don't see any excuse for this having not been put in the prefilled direct testimony.

#7-5-SueW

1 If the parties needed an additional period of
2 time they could have filed any time between the 23rd and
3 up to this morning. I think it's extremely unfair for
4 the Applicants to hear about this for the first time in
5 oral cross-examination of Ms. Miriello.

6 I also wonder if Ms. Miriello isn't going to
7 find some additional matters next week that she will raise.

8 JUDGE KELLEY: Excuse me a minute.

9 (The Board members are conferring.)

10 JUDGE KELLEY: Gentlemen, the Board has previously
11 discussed the present situation which seems to us a sort
12 of competing balance between fairness to the litigants,
13 particularly the Applicants here who don't have any advance
14 notice of these matters, and simply putting the facts out
15 as viewed by any witness and make sure that we get the
16 safety information that we need to know.

17 We are going to put to you now what we think
18 is a fairly simple proposition, which we would like to
19 hear your views on, pro and con, and then we could hear
20 a motion from anybody who wants to make a motion.

21 This isn't now a motion from the Board. This
22 is just something that we think might be an appropriate
23 approach.

24 And it's as follows: We go ahead and Ms.
25 Miriello will finish the answer to this statement. And we

#7-6-SueW 1 will finish the description of I think the second incident.
2 And then she indicated there was a third, and she can
3 describe that also.

4 In that way, the information will be out. It
5 will be public. And since we've had a public hearing on
6 this, it's well that be finished out.

7 But then that her -- the portion of her testimony
8 comprising the answer to Mr. Cole's question be treated as
9 a limited appearance and turned over to the Staff for
10 investigation and stricken from the evidentiary record,
11 in view of the fact that there is no reason that we have
12 heard why these matters could not have been put in the pre-
13 filed testimony and that, therefore, it would be unfair
14 to the other parties to treat it as evidence in this proceed-
15 ing.

16 That's a proposition. We are not sure whether
17 it is a good and the best answer, but we would like to hear
18 your reactions.

19 Mr. Hollar.

20 MR. HOLLAR: Could I have a moment, Your Honor?

21 JUDGE KELLEY: Yes. Do you want a break?

22 MR. HOLLAR: Yes. Five minutes?

23 JUDGE KELLEY: Five minutes. Not a long one.

24 Five minutes.

25 (Whereupon, the hearing is recessed at 11:16 a.m.,

#7-7-SueW

1 to reconvene at 11:26 a.m., this same date.)

2 JUDGE KELLEY: Back on the record. Mr. Cole.

3 MR. COLE: Mr. Chairman, another solution to
4 this problem has been arrived at by me.

5 I am going to withdraw my last question, or
6 maybe the last three because I think I repeated it maybe
7 twice, and just let the record and testimony stand as is.

8 JUDGE KELLEY: That would take care of --
9 all right. Let's move around the table.

10 We had a -- the Chair had a proposition pending.
11 Mr. Cole has withdrawn his question, as he just stated.
12 And that has the effect of our not proceeding now at least
13 with further testimony on these points.

14 I would just modify the Board's proposal that
15 Ms. Miriello and the Staff get together and hear the
16 remainder of her concerns and the Staff look into them,
17 as they normally do with the expression of such concerns.

18 But then the proposition would stand as stated
19 for what's already on the record.

20 Mr. Hollar.

21 MR. HOLLAR: Your Honor, we understood that the
22 proposal would also include that Ms. Miriello's answers
23 to Mr. Cole's questions would be stricken from the record.

24 JUDGE KELLEY: I don't want to nit-pick. I
25 think -- Mr. Cole can withdraw his question. Mr. Cole

7-8-SueW

1 can't strike pages of the transcript. The Board has to do
2 that.

3 When he withdraws his question, it means his
4 question is off, he doesn't want to ask it anymore. But
5 what is already in the record, we have to control. I
6 don't know that it's a terribly practical or important
7 distinction. I think it has some significance.

8 We understand it as Mr. Cole saying: I'm no
9 longer interested in this -- in pursuing this question.

10 Are you content to let the record rest or not?

11 MR. HOLLAR: We would move to have the responses
12 stricken. We would also ask that Ms. Miriello inform us
13 of any names and additional information that she has for
14 our own investigation off the record.

15 JUDGE KELLEY: Can we be clear, just so every-
16 one understands, move to strike means to move to strike
17 the portions of the last few pages of testimony on this
18 answer. They would physically remain in the transcript,
19 but they would not be a part technically of the evidentiary
20 record, and this Board upon deciding the case would not
21 consider them.

22 That's what you are moving for, right?

23 MR. HOLLAR: Yes, Your Honor.

24 JUDGE KELLEY: Okay. Mr. Barth?

25 MR. BARTH: Your Honor, may I have another thirty

#7-9-SueW

seconds with my co-counsel for a moment?

JUDGE KELLEY: Okay. We will go to Mr. Runkle.

MR. RUNKLE: I may have misspoke on the record previously. I did know about the first incident. And it was my understanding that that had already been resolved as one of the 201.

The way she stated it, I wasn't sure and I checked my notes, and asked her at the break.

JUDGE KELLEY: Okay.

MR. RUNKLE: The motion to strike, I have no objection to that, and I'm sure Ms. Miriello would be -- I mean, there are other avenues besides this hearing to investigate these allegations. And I'm not sure what they are and, you know, what kind of commitment Ms. Miriello can make to those.

JUDGE KELLEY: I would like to underline that point. And we would like to ask Ms. Miriello specifically to transmit your concerns to the Staff so that they can look into them.

I think our point today, as we heard parts of your concerns, we decided to stop -- well, we haven't decided it yet but there is a motion to stop because of the timing of the expression of the concerns basically.

But, Mr. Runkle, you have no objection to the motion if I heard you correctly?

10-SuwW

1 MR. RUNKLE: Yeah, I have no objection.

2 JUDGE KELLEY: All right. Mr. Cole, it's
3 okay with you?

4 MR. COLE: Yes, sir.

5 JUDGE KELLEY: Mr. Barth?

6 MR. BARTH: Your Honor, we will treat this as
7 we treat any other allegation of drug use on the site,
8 although it comes up in the context of this hearing. And,
9 we will treat it as we have any other allegation for any
10 other plant or for this plant.

11 JUDGE KELLEY: So, you support Mr. Hollar's
12 motion?

13 MR. BARTH: Yes, Your Honor.

14 JUDGE KELLEY: Supported or accepted by all
15 counsel, the motion is granted.

16 And we will go back to Mr. Cole.

17 MR. COLE: I have no further questions, Your
18 Honor.

19 JUDGE KELLEY: Okay. Mr. Barth, questions?

20 CROSS EXAMINATION

21 BY MR. BARTH:

22 Q Ms. Miriello, may I direct you to Page 2 of
23 your prefiled written testimony?

24 A I have it.

25 Q I refer you to Line 16, the last several words,

7-11-SueW 1 "I have an MS." Has the University conferred a Master's
2 degree in Science upon you at this time?

3 MR. RUNKLE: I'm going to object to that.
4 That has been asked and answered.

5 JUDGE KELLEY: The question is whether Ms.
6 Miriello had a diploma. Is that the same thing?

7 I sustain the objection; it was asked and
8 answered.

9 BY MR. BARTH: (Continuing)

10 Q Ms. Miriello, are you currently today enrolled
11 in a nuclear engineering course at North Carolina State
12 University?

13 MR. RUNKLE: I will object to that as asked
14 and answered.

15 JUDGE KELLEY: Yes, sustained.

16 BY MR. BARTH: (Continuing)

17 Q Ms. Miriello, I refer you to Page 4 of your
18 prefiled testimony. And you state on one occasion last
19 October 1984 you arrived at work and observed construction
20 workers obviously smoking marijuana.

21 Do you find this in your testimony, ma'am?

22 A Yes.

23 Q About how far away from these workers were you?

24 A I was walking right next to the blowers practically,
25 I would say within twenty feet. Like from here -- I mean,

-12-SueW

1 one may have been within the same distance you are from
2 me now.

3 Q And at this distance, you could recognize that
4 these were marijuana cigarettes rather than Lucky Strikes
5 or --

6 A I could smell it.

7 Q And could you see the -- were these people wearing
8 helmets?

9 A Yes. They were wearing Daniel's helmets.

10 Q And could you tell, or do you recall the color
11 of the helmet?

12 A I think they were tan.

13 Q Do you recall any of the numbers of the work
14 crews on the helmets?

15 A No. When there are that many people that are
16 smoking pot, and I had to work on that site, I didn't want
17 to stop and stare and take down names, because they knew
18 who I was, too.

19 Q Oh, you knew who they were? Did you report
20 any of those individuals to Carolina Power and Light
21 officials or the Daniel officials at the time?

22 A No, I didn't.

23 Q Did you report them to any of the local County
24 police at the time, the Sheriff I believe in this case,
25 or the local law enforcement agencies?

#7-13-SueW 1

A No, I didn't.

2

MR. BARTH: I have no further questions, Your

3

Honor.

4

JUDGE KELLEY: Okay. Thank you.

5

BOARD EXAMINATION

6

BY JUDGE KELLEY:

INDEXXXX

7

Q Ms. Miriello, I would just like to -- it's the

8

Board's turn on questions, and I would like to just pursue

9

with you a little further this on Page 4 towards the bottom,

10

the paragraph beginning, "Additionally, when I walked

11

through the Daniel parking lot..." and you say you could

12

smell marijuana.

13

Are you familiar with the marijuana smell?

14

A Yes, I am.

15

Q What does it smell like?

16

A It's sort of a sweet odor. I shouldn't say

17

sweet. It's striking.

18

I really can't say what it smells like. I've

19

seen people light up and been in their presence and smelled

20

it.

21

Q I'm trying to get some notion of time interval

22

here. You say three or four days a week, especially at

23

lunch time.

24

Does this mean on your average week at the site,

25

you would go through the lot -- would you go through

-14-SueW 1 the lot everyday?

2 A When I worked for NES, I had to park in that
3 parking lot. And I would have to walk through that lot
4 everyday.

5 Q So, you drive there yourself in the morning and
6 you park?

7 A Yes.

8 Q Okay. So, five days a week with NES anyway,
9 you would be in the lot and walking in and out?

10 A Six and seven days a week most of the time.
11 The In-Service Inspection Group was working a lot of over-
12 time.

13 Q Okay. Why would you be in the lot -- what
14 occasion did you have to be in the lot at lunch time?

15 A The incidence I was thinking about in the
16 affidavit, I had come in to work late that morning and
17 as I walked through the parking lot the smell was obvious,
18 people were in cars, and you could see the roaches.

19 Q But if you single out one incidence that
20 you recall specifically, the preceding part of this same
21 sentence you say, "I could smell marijuana at least three
22 or four days a week," reading that literally I would take
23 that to mean that most of the time when you walked through
24 the lot you could smell marijuana.

25 Is that what that means?

#7-15-SueW 1 A Yes. Yes, definitely.

2 Q Then, if it was just an ordinary, everyday
3 occurrence why does that one incident you just referred
4 to stand out in your mind?

5 A Because it was really close to the construction
6 building and the entrance. And I thought security could
7 have done a better job in eliminating the problem that
8 close to the building.

9 I mean, it was typical to see it and smell it
10 out in the parking lot. But when you smell -- it's right
11 by the darn door.

12 Q Was this -- now, typically when you would be
13 walking through the lot and you would smell marijuana,
14 were there people there smoking or was this just a residual
15 odor from cars, did you think?

16 A No. When you would look towards the smell,
17 there would be people in the cars or people outside of
18 the cars. Sometimes the joints were obvious.

19 Q Okay. But your -- I guess I'm thinking of
20 yesterday when people with more acute olfactory senses
21 than you and me could smell residue and so on, but this
22 is people smoking at the time you are talking about, right?

23 A Yes.

24 Q All right. Could you give us any notion, when
25 you offered this description of smelling marijuana and then

17-16-SueW 1 seeing people there, would this be a car and a couple of
2 people or twenty cars or fifty cars with people in it?

3 A Usually one or two cars, or maybe a few guys
4 standing around together, or maybe three or four guys at
5 the back of a pickup truck drinking beer and smoking
6 marijuana.

7 Q I'm not getting then from you a notion -- on
8 the one hand, I can sort of visualize in my mind, you know,
9 the old fashioned smoking lounge when smoking was more in
10 favor and people all go in there and smoke cigarettes,
11 and that was sort of the purpose of the place.

12 I'm not getting that impression about the CP&L
13 parking lot. I mean, there might be a group of people,
14 but it wasn't as if the lot was full of marijuana smokers.

15 Or, was it?

16 A Not every car. But, I mean, you could walk from
17 one end of the lot and see it at one end, and to the other
18 end of the lot and see it there also.

19 Q But if you were walking through a lot -- is this
20 the big main lot?

21 A This is the Daniel parking lot.

22 Q It's Daniel's lot?

23 A Right.

24 Q Okay. And this would have several thousand cars
25 in it, I take it, on a typical day?

#7-17-SueW 1

A Yes, it would.

2 Q And it's half a mile long. I don't know. How

3 big is it?

4 A A quarter to half a mile.

5 Q Long and then so many rows deep?

6 A Yeah.

7 Q It's a long rectangular --

8 A It's odd shaped. It's not completely rectangular.

9 Q Okay. But it's a big rectangle with some rough
10 edges; is that fair?

11 A Yeah.

12 Q Okay. With maybe three or four thousand cars
13 in it as a rough guess.14 Now, if you were walking through there at this
15 time and you were typically seeing what you thought was
16 marijuana, how many cars, groups of people would you see?17 A In the small area that I would cover as I would
18 walk through the lot, I would see maybe three or four cars,
19 smell it maybe once or twice.20 Q When you say small area, do you mean if you
21 parked way out at the end of the lot you would probably
22 have to walk the whole lot.23 Would you park kind of close to the gate and get
24 out and walk in? Is that what you mean by small area?

25 A A lot of times I would walk through the periphery

-18-SueW

1

of the lot, because I didn't want to walk up between the
cars. I didn't think it was that safe half the time.

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END #7

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Joe flws

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1 JUDGE KELLEY: Okay. That is all I have.

2 Mr. Runkle, Redirect?

3 MR. RUNKLE: Yes.

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4 REDIRECT EXAMINATION

5 BY MR. RUNKLE:

6 Q Ms. Miriello, you turn to what has been introduced
7 -- entered as Applicants' Exhibit No. 41, the employee exit
8 questionnaire?

9 A Yes, I have it here.

10 Q At the time you filled this out, were you an
11 employee that was exiting from the Harris site?

12 A No, sir; I wasn't.

13 Q Why did you fill this questionnaire out?

14 A I had no choice.

15 Q Who gave you no choice?

16 A I was told to report to the quality check trailer
17 and go through the exit interview, and if you are smart
18 and you work for a contractor at CP&L and if you want to
19 be employed by CP&L, you don't argue with those people.

20 You go do it, and I didn't want to raise any
21 suspicion when I answered these questions, because the
22 matter was already given to the FBI.

23 Q Now, what matter was that?

24 A That was the drug allegations against ConAm.

25 Q All right. And if you will look at Line 5 of

1 this questionnaire, it states, does it not, your reason for
2 leaving the Harris plant?

3 A It was to come back to work for CP&L, so I wasn't
4 really leaving the Harris plant. I was going from one trailer
5 to a building, which was close by.

6 Q Now, if I can had you the Applicants' third panel's
7 testimony, which was the joint testimony of Hindman, King,
8 Joyner, Bensinger, on the assessment of employee drug
9 activity, page 15.

10 If we could have a minute to find a clean copy
11 of this.

12 (Pause.)

13 Do you have in front of you Applicants' testimony
14 from the third panel?

15 A Yes, I do.

16 Q Can you turn to page 15 of that?

17 A Yes. I am there.

18 Q Do you see a sentence right before Question 15
19 that starts with the line, According to another co-worker.

20 Do you see that sentence? It is right before
21 that paragraph that is indented, or right after that
22 paragraph that has been indented.

23 A Yes, I do.

24 Q Can you take the time and just read that to yourself

25 A Yes, I have read it.

1 Q Did you make that statement?

2 A No, I did not.

3 Q I have no other questions on redirect.

4 JUDGE KELLEY: Thank you, Mr. Runkle. Any
5 further questions from anybody.

6 MR. HOLLAR: I have two questions on Recross.

7 JUDGE KELLEY: Okay.

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8 RECROSS-EXAMINATION

9 BY MR. HOLLAR:

10 Q Ms. Miriello, was your resume attached to your
11 testimony, or to the September 6th affidavit that you filed?

12 A Mr. Runkle had it, Mr. Cole had it.

13 Q That was not the question. Was it attached
14 to the testimony or the affidavit?

15 A No, I don't think.

16 MR. RUNKLE: We will be glad to stipulate it was
17 not attached to either one.

18 JUDGE KELLEY: All right.

19 BY MR. HOLLAR: (Continuing)

20 Q Ms. Miriello, do you know whether Daniel constructio
21 workers are permitted to go to the employee parking lot at
22 lunch time?

23 A I have seen them out there.

24 Q Do you know whether there is a Daniel policy
25 against their being in the parking lot at lunch without

1 special permission?

2 A That is for all Daniel employees?

3 Q Construction workers.

4 A I have seen Daniel employees out there. Not all
5 Daniel employees are construction workers.

6 Q Are you familiar with the policy as it pertains
7 to Daniel construction workers?

8 A No.

9 MR. HOLLAR: That is all the questions I have.

10 JUDGE KELLEY: Okay. Ms. Miriello, that takes
11 us through the process then. We appreciate your coming.
12 Thank you very much. You are excused.

13 (WITNESS STANDS ASIDE.)

14 MR. RUNKLE: At this time, I would like to move
15 to strike that sentence on page 15 of the third panel's
16 testimony as hearsay.

17 JUDGE KELLEY: This is the statment in the bar?
18 The alleged statement in the bar?

19 MR. RUNKLE: Yes, sir.

20 JUDGE KELLEY: Comment from the Applicants?

21 MR. HOLLAR: Your Honor, I believe the Board
22 has already ruled on the admissibility of the statement,
23 the statement is one that is made by a trained law enforcement
24 security official.

25 JUDGE KELLEY: Excuse me. We are looking at

MEMORANDUM TO CASE FILE

(all four cases)

TYPE ACTION

X RECORD OF CONVERSATION

() CASE REPLY / STATUS

X OTHER

(CS) *reference**initial memo, dated 09-10-85,
my info taken 09-06-85.*

PARTICIPANTS

T.A. NASH

E.L. WILLIAMSON

L.L. ROBINSON

CONFIDENTIALITY REQUESTED

N/A

FILE NO.

RII-85-A-016

FILE NO.

RII-85-A-0169

DATE RECEIVED

RII-86-A-

TIME / DATE

2018 and RII-86-A-0167

TIME / DATE

2:15pm (EST) 01-09-86

SUMMARY

I contacted E.L. Williamson of the Office of Investigations, Region II Field Office, and asked him about algr's confidentiality status with OI. He replied that she doesn't have any confidential status and never has had any confidentiality granted by him or anyone else that he knew anything about. I referred Williamson to Bruno Byrle's Case - opening memo of the very first case opened (of the four cases opened in her behalf). Williamson looked at the memo in question, as well as RII:OI's Investigation Status Record dated 9/9/85 and saw where someone had mistakenly (according to Williamson) recorded the algr as a confidential source (CS). At this time Williamson once again said that he did not know how that confidential alleged term got into the Investigation Status Record contained in our file, and that he had not granted that status nor had the Headquarters, OI. He then went and double checked OI's Confidential records and came back saying that he'd been correct. Williamson went on to say that he'd remembered the algr, and that he believed G.A.P. had sent her to NRC (OI), and she was not confidential.

PAGE 1 OF 2

PREPARED BY

Fulach

DATE PREPARED

01-09-86

ACTION REQUIRED

Coordinate this information with all concerned.

REVIEWED BY

DATE

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MEMORANDUM TO CASE FILE CONTINUATION SHEET

I next talked with L. L. Robinson, RTI:OI, and asked him about the algr's confidential status. Robinson replied that confidentiality had never been granted to algr in these cases. I do he (Robinson) understood the situation, when Williamson had originally taken the allegations from the algr, the algr requested confidential status. Between the time of the request by the algr and the visit by Messrs. Robinson & Burch (OI) with the algr, the algr had gone public with her concerns and thus had negated any possibility of a confidential status. Thus, Robinson reasoned, there was never any confidentiality granted. Robinson went on to explain that the entire matter of "no award" (granting) of confidentiality had been thoroughly discussed with the algr during his and Burch's interview process. The algr understood the entire process and our reasoning for not granting the confidentiality said Robinson. I later understood that L. L. Williamson had taken the allegations from the algr, received her request for confidentiality, and quickly made up the report under the premise of her request being honored, and took the necessary precautions with the paperwork - labeling same with her requested status. Following this initial log action, and before the Robinson/Burch interview, the algr went public with her concerns - negating any realistic confidentiality. The status was never granted, but the original paperwork in our files stayed as it had been originally received from OI. NO CONFIDENTIAL STATUS is carried in this case.

FILE NO. RTI-85-A-011/011	DATE	TIME	PAGE
RTI-85-A-0218/0067	01-09-86	2:15pm (EST)	2 OF 2

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MEMORANDUM TO CASE FILE

TYPE ACTION

- () RECORD OF CONVERSATION
() CASE REVIEW / STATUS
(X) OTHER

PARTICIPANTS

CONFIDENTIALITY REQUESTED YES NO

FILE NO.

85-A-0166

DATE

1-16-86

TIME

SUMMARY

IR 400/85-48 was the subject of some discussion as to whether or not it should be issued with a violation that addresses an issue currently under investigation by OI.

Brook Jones, J. Blake and G. Jenkins discussed this issue and JONES was to resolve the issue. The report was provided to Jones for action.

PAGE OF

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